



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

September 4, 2014

Re: JIC Advisory Opinion 2014-16.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: Your uncle passed away in June 2012, and you are the administrator of his estate, which consists of 52 acres of real property located in _____ County. You were unable to obtain unanimous consent of the 20 plus heirs to sell the property and distribute the assets according to the intestate succession statute. A partition suit was filed and as administrator, you are the named defendant. At an August 8, 2014 hearing on the matter, the Court ordered that the property be sold at auction and that partition in kind was not possible. You want to know if the Court can appoint you to serve as special commissioner for the sale of the property.

To address the question which you have raised, the Commission reviewed the Constitution of West Virginia, Article VIII, § 7, which provides in pertinent part:

No justice, judge or magistrate shall hold any other office, or accept any other appointment for public trust, under this or any other government; . . .

Based upon the foregoing, it is the position of the Judicial Investigation Commission that you cannot serve as a special commissioner because such an appointment would violate the Constitution of West Virginia, Article VIII, § 7.

It is hoped that this opinion fully addresses the issues which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,



Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat